

## SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into as of June 10, 2003 (the "Execution Date") by and among the Governor of the State of California, acting on behalf of the agencies, departments, subdivisions, boards, and commissions of the executive branch of the State of California; the California Electricity Oversight Board; the California Public Utilities Commission; the People of the State of California, by and through the Attorney General; Allegheny Energy Supply Company, LLC and Allegheny Trading Finance Company.

### 1. Definitions.

The following terms have the following meanings:

1.1. "AG" means the People of the State of California, by and through the Attorney General Bill Lockyer.

1.2. "Allegheny" means Allegheny Energy Supply Company, LLC and Allegheny Trading Finance Company, both individually and collectively.

1.3. "Allegheny Released Parties" means Allegheny, its parents, and each of their officers, directors, employees, attorneys, agents and representatives.

1.4. "California Executive" means the Governor of the State of California, acting on behalf of the agencies, departments, subdivisions, boards, and commissions of the executive branch of the State of California, including, without limitation, CDWR. California Executive shall not include the CPUC or any other body created by the California Constitution.

1.5. "California State Releasing Parties" means the California Executive, the CPUC, the CEOB and the AG.

1.6. "CDWR" means the State of California Department of Water Resources, including without limitation, the California Energy Resources Scheduling Division.

1.7. "CEOB" means the California Electricity Oversight Board.

1.8. "CPUC" means the California Public Utilities Commission.

1.9. "Effective Date" has the meaning set forth in Paragraph 3.10 of this Settlement Agreement.

1.10. "Execution Date" has the meaning set forth in the first paragraph of this Settlement Agreement.

1.11. "FERC" means the Federal Energy Regulatory Commission.

1.12. "Just and Reasonable" means that term as used in Sections 205 and 206 of the Federal Power Act, 16 U.S.C. Sections 824d and 824e.

1.13. “Original Contract” means, collectively, that certain Master Power Purchase and Sale Agreement (together with the cover sheet, confirmation agreement, exhibits, schedules, confirmation letters and written supplements thereto, including without limitation the confirmation letters dated on or about March 23, 2001 and on April 20, 2001) dated as of March 23, 2001, by and between the CDWR and Allegheny Energy Supply Company, LLC which was assigned to Allegheny Trading Finance Company on December 23, 2002.

1.14. “Paragraph” means a numbered paragraph of this Settlement Agreement, unless otherwise noted, and all references to a paragraph shall include all subparts or subparagraphs of that paragraph.

1.15. “Parties” means the persons and entities listed in the first paragraph of this Settlement Agreement, collectively, and their respective successors and assigns. Each of the Parties may be individually referred to herein as a “Party.”

1.16. “Released Claims” means any and all of the claims set forth and described in Paragraphs 4.1, 4.2, 4.3, 4.4 and 4.5.

1.17. “Renegotiated Contract” means that certain Amended and Restated Master Power Purchase and Sale Agreement (together with any exhibits, schedules, confirmation letters and written supplements thereto), executed as of the Execution Date, by and between the CDWR and Allegheny Trading Finance Company, a copy of which is attached hereto as Exhibit A.

1.18. “Settlement Agreement” means this document.

## **2. Recitals.**

2.1. To help further the objective of assuring a reliable supply of electricity for California’s retail end-use consumers, the CDWR entered into the Original Contract.

2.2. On February 25, 2002, the CPUC and the CEOB, respectively, filed separate complaints in Docket Nos. EL02-60-000 and EL02-62-000 under Section 206 of the Federal Power Act at the FERC alleging, among other things, that the terms and the rates under the Original Contract are not Just and Reasonable or consistent with the public interest (the “CPUC Complaint” and the “CEOB Complaint,” respectively).

2.3. During 2002, certain of the Parties commenced discussions regarding renegotiation of the Original Contract.

2.4. On January 29, 2003, CDWR filed a complaint for declaratory and injunctive relief and restitution in the Superior Court of the State of California for the County of Sacramento, California (the “Superior Court”) in Case No. 03AS00488 alleging that Allegheny breached the Original Contract and seeking a determination regarding CDWR’s obligations under the Original Contract including, but not limited to, the effectiveness of the Original Contract due to the alleged insolvency of Allegheny Energy Supply Company, LLC, and the assignment of the Original Contract to Allegheny Trading Finance Company. The action described in this Paragraph 2.4, is referred to herein as the “Superior Court Proceeding.”

2.5. On February 21, 2003, Allegheny filed a claim for damages with the Victim Compensation and Government Claims Board (f/k/a the Board of Control) (the "Government Claims Board") of the State of California against The State of California, CDWR, CPUC, CEOB, and certain officers, employees, representatives, and consultants identified as Does 1-30. This Claim asserted both contract-based and tort-based claims for injuries, harms, and damages allegedly suffered by Allegheny arising from the negotiations, challenges, operation, and other conduct regarding the Original Contract. This Claim, described in this Paragraph 2.5, is referred to herein as the "Government Claims Board Claim."

2.6. On the Execution Date, the CDWR and Allegheny Trading Finance Company will execute the Renegotiated Contract, which will represent an amended and restated version of the Original Contract and which will become effective and supersede the Original Contract on the Effective Date.

2.7. Pursuant to AB1X, the CDWR and the CPUC have executed the duly authorized Rate Agreement (the "Rate Agreement") providing for the recovery by CDWR of its revenue requirements. The CPUC issued D. 02-02-051 on February 21, 2002, finding the Rate Agreement to be in the public interest and adopting it.

2.8. The Parties desire to resolve certain matters and to avoid any future claims relating to them, including issues relating to the effectiveness, enforceability, validity or justness and reasonableness of the Renegotiated Contract, by way of compromise rather than by litigation. The Parties have agreed to resolve such matters and to ensure the ongoing effectiveness and validity of the Renegotiated Contract on the terms and conditions set forth in this Settlement Agreement.

**NOW, THEREFORE**, in consideration of the foregoing, the mutual covenants contained herein, and the execution of the Renegotiated Contract, it is hereby agreed between and among the Parties as follows:

### **3. Closing**

3.1. Each Party shall execute six (6) copies of the Settlement Agreement. By 5:00 p.m. Pacific time on the Execution Date, each Party shall deliver or send by facsimile to each other Party one executed original or copy of this Settlement Agreement. Any Party that sends an executed copy of this Settlement Agreement by facsimile shall also send the signed original by overnight mail for delivery the following business day.

3.2. CDWR, Allegheny Trading Finance Company and Allegheny Energy Supply Company, LLC shall execute four (4) copies of the Renegotiated Contract. By 5:00 p.m. Pacific time on the Execution Date, CDWR and Allegheny shall deliver executed copies of the Renegotiated Contract to each of the California State Releasing Parties.

3.3. By 5:00 p.m. Pacific time on the Execution Date, the CDWR and the AG shall each have executed and provided to Allegheny legal opinions in the forms attached hereto as Exhibit B and Exhibit C respectively.

3.4. This Settlement Agreement, including the releases and other actions provided for herein, and the Renegotiated Contract shall not become effective until and unless the CPUC has voted to adopt the Settlement Agreement. By 5:00 p.m. Pacific time on the Execution Date, the CPUC shall have considered and voted on approving the execution of this Settlement Agreement by the CPUC and communicated the outcome of the vote to Allegheny.

3.5. Within two (2) business days of the Execution Date, CDWR and Allegheny shall execute a request to stay the Superior Court Proceeding for a period of ninety (90) days from the Execution Date in order to provide sufficient time for FERC to act upon the filings described in paragraph 4.8 hereof (the "Request for Stay"). Within two (2) business days of the Execution Date, Allegheny shall deliver to CDWR an executed copy of the Request for Stay in a form mutually acceptable to the parties, which CDWR will execute and lodge with the Superior Court. CDWR will provide Allegheny with a conformed copy of the Request for Stay with a court stamp reflecting that it has been lodged with the court.

3.6. Within two (2) business days of the Execution Date, the CPUC and the CEOB shall have filed a motion requesting that FERC issue an order staying the CPUC Complaint and CEOB Complaint proceedings insofar as they relate to Allegheny for a period of forty-five (45) days.

3.7. By 5:00 p.m. Pacific time on the Execution Date, the California State Releasing Parties and Allegheny shall have taken all actions necessary to authorize the execution and delivery of this Settlement Agreement and the Renegotiated Contract.

3.8. By 5:00 p.m. Pacific time on the Effective Date, CDWR shall execute and file a Request for Dismissal with prejudice of the "Superior Court Proceeding" ("Request for Dismissal") with the Superior Court. CDWR will provide Allegheny with a conformed copy of the Request for Dismissal with a court stamp reflecting that it has been filed with the court as provided in Paragraph 4.3.

3.9. By 5:00 p.m. Pacific time on the Effective Date, FERC shall (in response to the filings required pursuant to Paragraph 4.8) have issued a final and non-appealable order(s) (x) granting the withdrawal/dismissal of the CPUC/CEOB Complaints insofar as they relate solely to Allegheny, (y) approving the Settlement Agreement and (z) accepting for filing the Renegotiated Contract.

3.10 This Settlement Agreement, including the releases and other actions provided for herein, and the Renegotiated Contract shall not become fully effective until the requirements of Paragraphs 3.1 through 3.9 have been satisfied (the date on which all such requirements have been satisfied, the "Effective Date"), provided that Allegheny may waive FERC's acceptance of the Renegotiated Contract pursuant to Paragraph 3.9(z) as a condition to Closing. If the Effective Date has not been achieved by 5:00 p.m. Pacific time on the day that is ninety (90) days after the Execution Date or such longer time as the parties may mutually agree in writing, this Settlement Agreement shall terminate and be of no further force and effect and the Renegotiated Contract shall never become effective.

3.11 Notwithstanding Section 3.10 and the Effective Date provisions hereof, from and after the Execution Date, each Party hereto shall have complied with its obligations under this Settlement Agreement (to the extent such obligations are applicable prior to the Effective Date), unless such failure to perform has been waived. Notwithstanding Section 3.10 and the Effective Date provisions hereof, from the Execution Date through the Effective Date, CDWR and Allegheny agree to act in a manner fully in accordance with the terms of the Renegotiated Contract as if it were fully in effect for the period from the Execution Date through the Effective Date.

#### **4. Mutual Release and Waiver.**

##### **4.1. The Original Contract and the Renegotiated Contract**

As of the Effective Date, each of the California State Releasing Parties for itself hereby releases, acquits and forever discharges any and all claims of any nature whatsoever that it ever had, now has, or hereafter can, shall, or may have against the Allegheny Released Parties based on, or arising out of, in whole or in part, (1) the Original Contract (including, without limitation, any claim based upon the effectiveness of the Original Contract due to an allegation that Allegheny is Bankrupt (as such term is defined in the Original Contract), or any alleged failure of Allegheny to provide performance assurances under the UCC or otherwise, or any assignment of the Original Contract allegedly in breach of the Original Contract), or (2) issues relating to the effectiveness, due authorization, validity, or enforceability of any of the obligations of any of the California State Releasing Parties under the Renegotiated Contract or whether such obligations are Just and Reasonable. The releases contained herein may be enforced, to the extent affecting the Renegotiated Contract, by any successor or assign of Allegheny under the Renegotiated Contract. This release does not constitute a waiver by the California State Releasing Parties of the right to pursue remedies under the Renegotiated Contract for acts and omissions from and after the Effective Date as provided therein, including but not limited to (1) claims of breach of an obligation created by the Renegotiated Contract, (2) claims of failure to perform under the Renegotiated Contract, and (3) disputes over the nature, but not the validity, of the obligations created by, or the meaning of any terms used in, the Renegotiated Contract. The release in this Paragraph 4.1 applies only to matters based on, or arising out of, in whole or in part, the generation, sale, purchase, ownership and/or transmission of electricity, natural gas and/or other utility or energy goods and services pursuant to the Original Contract and the Renegotiated Contract, and does not include matters of general applicability including, without limitation, environmental, permitting, health, safety and taxation.

The Parties hereby stipulate and agree that this Settlement Agreement and the Renegotiated Contract were entered into as a result of arms'-length negotiations between the Parties. Further, the Parties believe that the rates, terms and conditions of the Renegotiated Contract are Just and Reasonable, and that the rates, terms and conditions of the Renegotiated Contract will remain so over the life of the Renegotiated Contract. The California State Releasing Parties waive all rights to challenge the validity of the Renegotiated Contract or whether it is Just and Reasonable for and with respect to the entire term thereof, including any rights under Sections 205 and 206 of the Federal Power Act to request the FERC to revise the terms and conditions and the rates or services specified in the Renegotiated Contract, and hereby agree to make no filings at the FERC or with any other state or federal agency, board, court or

tribunal challenging the rates, terms and conditions of the Renegotiated Contract as to whether they are Just and Reasonable or in the public interest. It is further agreed that, in the event of any future challenges to the Renegotiated Contract for any other reason, the Parties will not dispute the applicability, as to the Parties, of the public interest standard as that term has been defined and interpreted under the Federal Power Act and the cases of United Gas Pipe Line Co. v. Mobile Gas Corp., 350 U.S. 332 (1956), and FPC v. Sierra Pacific Power Co., 350 U.S. 348 (1956), and subsequent cases.

The California State Releasing Parties and Allegheny acknowledge and agree that the Renegotiated Contract (but not any novation by means of a Replacement Agreement as defined in the Renegotiated Contract), is a “Priority Long Term Power Contract” under the Rate Agreement.

#### 4.2. Original Contract and FERC

The CEOB and CPUC hereby agree to dismiss with prejudice, as to Allegheny only, all actions or complaints set forth in the CPUC Complaint and the CEOB Complaint pertaining to Allegheny pursuant to the procedures set forth in Paragraph 4.8 herein.

This provision shall not restrict in any other way the ability of the CEOB or the CPUC to continue to participate in the CPUC Complaint or CEOB Complaint.

#### 4.3. The Superior Court Proceeding

As of the Effective Date, the Allegheny Released Parties and CDWR release and forever discharge each other from any and all claims or causes of action which were alleged, or which could have been alleged, in the Superior Court Proceeding, including but not limited to any claim for attorneys fees or costs. As provided in Paragraph 3.8 above, on the Effective Date CDWR shall file the executed Request for Dismissal with prejudice with the Superior Court and will provide Allegheny with a conformed copy of the Request for Dismissal reflecting that it has been filed with the Superior Court. As soon as possible after the Request for Dismissal has been entered by the clerk of the Superior Court, CDWR will provide a copy of the Request for Dismissal reflecting such entry to Allegheny.

With respect to the period ending on the earlier of: (i) the assignment by Allegheny of all of its right, title and interest in the Renegotiated Contract, or (ii) the day that is one hundred and eighty (180) days after the Execution Date (the earlier of such dates, the “Bar Date”), CDWR agrees not (y) to take any action under the Renegotiated Contract (including without limitation the sending of any notice, demand or other written communication or any action to terminate the Renegotiated Contract), or (z) to file a new action in any court of competent jurisdiction seeking a determination regarding CDWR’s obligations under the Renegotiated Contract, in either case based upon the effectiveness of the Renegotiated Contract due to any allegation that Allegheny is Bankrupt (as defined in the Original Contract or Renegotiated Contract, as applicable) or any alleged failure of Allegheny to provide performance assurances under the UCC or otherwise, and any action that CDWR may take after the Bar Date with respect to such matters shall relate only to any event or circumstance occurring or alleged to occur after the Bar Date.

#### 4.4 Victim Compensation and Government Claims Board Claim

As of the Effective Date, Allegheny releases and forever discharges any and all claims which were alleged, or which could have been alleged, in the Government Claims Board Claim regardless whether filed in the Government Claims Board or in any other forum with jurisdiction to hear such claims. This release and discharge shall be in favor of all parties named or otherwise identified, including all Does parties, in the Government Claims Board Claim.

4.5. As of the Effective Date, Allegheny for itself hereby releases, acquits and forever discharges any and all claims of any nature whatsoever that it ever had, now has, or hereafter can, shall, or may have against the California State Releasing Parties based on, or arising out of, in whole or in part, (1) the Original Contract (other than amounts owing under the Original Contract for energy delivered on or prior to the Effective Date), or (2) issues relating to effectiveness, due authorization, validity, or enforceability of any of the obligations of Allegheny under the Renegotiated Contract or whether such obligations are Just and Reasonable. The releases in this Paragraph 4.5 do not constitute a waiver by Allegheny of the right to pursue remedies under the Renegotiated Contract for acts and omissions from and after the Effective Date as provided therein, including but not limited to (1) claims of breach of an obligation created by the Renegotiated Contract, (2) claims of failure to perform under the Renegotiated Contract, and (3) disputes over the nature, but not the validity, of the obligations created by, or the meaning of, any terms used in, the Renegotiated Contract.

As of the Effective Date, Allegheny hereby releases, acquits, and forever discharges the California State Releasing Parties from any and all claims arising on or before the Effective Date related to the claims described in Paragraphs 4.1 and 4.2. The releases in this Paragraph 4.5 do not constitute a waiver of any claims by Allegheny that actions of the California State Releasing Parties subsequent to the Effective Date may constitute an “impairment of contract,” as used in the California and United States Constitution, with respect to the Renegotiated Contract.

4.6. Notwithstanding anything herein to the contrary, nothing in Paragraphs 4.1 through 4.5 shall constitute a limitation to, or waiver of, any right to enforce any obligation or pursue any remedy provided under this Settlement Agreement or the Renegotiated Contract (including the enforcement of the releases provided by the Parties hereunder).

4.7. The California State Releasing Parties represent and agree that on and after the Execution Date they will not enter into any subsequent settlement agreement or similar agreement with other persons or entities who generated, sold or marketed power in California settling claims similar to or arising out of the same general facts and circumstances as the Released Claims directly or indirectly providing such other person or entity with third party beneficiary rights under or related to the matters covered by the Rate Agreement.

4.8. Within two (2) business days of the Execution Date, the CPUC and CEOB and Allegheny will file jointly with the FERC, pursuant to Rule 602 of the FERC's Rules of Practice and Procedure, an Offer of Settlement, which will (i) request approval of the Settlement Agreement, including the Renegotiated Contract as an attachment to the Settlement Agreement; (ii) request a shortened period for comments on the Settlement Agreement and request an expedited FERC order approving the Settlement Agreement; and (iii) request the partial

withdrawal/dismissal, as to Allegheny only, of the CPUC/CEOB complaint. As part of such filing, Allegheny will also seek FERC acceptance on an expedited basis (including a shortened notice period) of the Renegotiated Contract as an amended Allegheny FERC Rate Schedule.

The Parties will cooperate and assist each other in good faith in the preparation and filing of the Offer of Settlement and the other filings mentioned in this Paragraph 4.8, in any and all proceedings arising out of, or related to, the Offer of Settlement and such other filings, including but not limited to acting in good faith to take all necessary actions to effectuate FERC acceptance for filing of the Renegotiated Contract, approval of the Settlement Agreement, and withdrawal/dismissal of the CPUC/CEOB complaint as to Allegheny only.

4.9. As of the Effective Date, the California State Releasing Parties and Allegheny each expressly waives the benefits of any statutory provision or common law rule that provides, in sum or substance, that a release does not extend to claims which the party does not know or suspect to exist in its favor at the time of executing the release, which if known by it, would have materially affected its settlement with the other party. In particular, but without limitation, each of the California State Releasing Parties and Allegheny expressly waives the provisions of California Civil Code section 1542, which statute reads:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.**

Each of the California State Releasing Parties and Allegheny may hereafter discover facts other than or different from those that it knows or believes to be true with respect to the claims released pursuant to the provisions of this Settlement Agreement, but each of the California State Releasing Parties and Allegheny hereby expressly waives and fully, finally and forever settles and releases any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or noncontingent claim with respect to the Released Claims, and without regard to the subsequent discovery or existence of such different or additional facts, except, with respect to the AG, criminal claims and claims of willful fraud.

4.10. The California State Releasing Parties and Allegheny each expressly represents and warrants that it has not sold, assigned, transferred, or encumbered, or otherwise disposed of, in whole or in part, voluntarily or involuntarily, any claim released pursuant to this Settlement Agreement.

4.11. This Settlement Agreement may be pleaded as a full and complete defense to any claim that may be instituted, prosecuted or attempted in breach of this Settlement Agreement. The Parties further agree that their respective duties and obligations hereunder may be specifically enforced through an action seeking equitable relief or a petition for writ of mandamus by the Party or Parties for whose benefit such duty or obligation is to be performed, but no breach of any duty or obligation by any Party hereunder shall entitle any other Party to rescind or terminate this Settlement Agreement or the Renegotiated Contract. In any such action, and in any action to enforce the provisions of the Settlement Agreement, the prevailing Party shall recover its reasonable attorneys' fees and costs.



4.12. Allegheny agrees that it is subject to, and will comply in all material respects with, applicable rate filing requirements under the Federal Power Act and regulations thereunder, as those requirements may be interpreted, reviewed and revised by the FERC or a federal court from time to time.

4.13. The California State Releasing Parties and Allegheny expressly understand that both direct and indirect breaches of the provisions of this Settlement Agreement are proscribed. Therefore, the California State Releasing Parties and Allegheny covenant that each will not institute or prosecute, against the other, any action or other proceeding based in whole or in part upon any claims released by this Settlement Agreement; provided, however, the Parties expressly acknowledge that the CPUC Complaint and CEOB Complaint are continuing with respect to entities other than Allegheny and this Settlement Agreement is not intended to impair in any way the California State Releasing Parties' participation in those pending actions.

4.14. The Parties hereby waive and release any and all claims for attorneys' fees or costs, statutory or otherwise, related in any way to disputes pre-dating the Effective Date of this Settlement Agreement or related to the Parties' entry into this Settlement Agreement.

4.15. The California State Releasing Parties hereby agree, represent, warrant and covenant they will not encourage or take any action not otherwise required by law to assist any individual, entity, organization, agency, department, board, subdivision, or commission not bound hereunder or a Party hereto to bring or maintain a claim in the nature of the Released Claims.

4.16. Each Party agrees, on and after the Execution Date, to use its reasonable best efforts to cause satisfaction of the requirements for the occurrence of the Effective Date.

## **5. General Provisions.**

5.1. In entering and making this Settlement Agreement, the Parties assume the risk of any mistake of fact or law, including without limitation by reason of any reversal of an administrative action that is a condition to the effectiveness of this Settlement Agreement. If the Parties, or any of them, should later discover that any fact they relied upon in entering this Settlement Agreement is not true, or that their understanding of the facts or law was incorrect, the Parties shall not be entitled to seek rescission of this Settlement Agreement by reason thereof, except in the case of willful fraud. Subject to these limitations this Settlement Agreement is intended to be final and binding upon the Parties regardless of any mistake of fact or law.

5.2. This Settlement Agreement shall be binding upon and for the benefit of any of the Parties and their successors and assigns. Nothing in this Settlement Agreement shall be construed or interpreted to impart any rights or obligations to any third party (other than a permitted successor or assignee bound to this Settlement Agreement).

5.3. Neither the provision of consideration in the form of the mutual covenants contained herein, nor the performance of any such covenants contained herein, nor anything contained or incorporated herein shall be deemed, nor shall the negotiations, execution and

performance of this Settlement Agreement constitute, any admission or concession of liability or wrongdoing on the part of any Party; or any other form of admission with respect to any matter, thing or dispute whatsoever. Any such liability or wrongdoing is expressly denied.

5.4. Each Party represents and warrants to the other Parties that (1) it has the full power and authority to enter into this Settlement Agreement and to perform all transactions, duties and obligations herein set forth, (2) it has taken all necessary actions duly and validly to authorize the execution and delivery of this Settlement Agreement and the other documents and agreements provided for herein to be executed and delivered by such Party in accordance with applicable law, (3) it has duly and validly executed and delivered this Settlement Agreement and the other documents and agreements provided for herein to be executed and delivered by such Party, and (4) this Settlement Agreement and the other documents and agreements provided for herein to be executed and delivered by such Party constitute the legal, valid and binding obligations of such Party, enforceable against such Party in accordance with their respective terms.

5.5. Each Party warrants the following: (1) it is represented by competent counsel with respect to this Settlement Agreement and all matters covered by it; (2) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Settlement Agreement; and (3) it authorizes and directs its respective attorneys to have such papers executed and to take such other action as is necessary and appropriate to effectuate the terms of this Settlement Agreement.

5.6. Each Party warrants that no promise, inducement or agreement not expressed herein has been made in connection with this Settlement Agreement. To the extent that it was deemed necessary and desirable by a Party, each such Party warrants that it has received appropriate, adequate, and competent technical and economic advice. Each Party warrants that it has not relied on any other Party for advice or guidance concerning the technical or economic implications or consequences of the Renegotiated Contract or this Settlement Agreement. This Settlement Agreement constitutes the entire agreement between the Parties and supersedes and replaces all prior negotiations or proposed agreements, written or oral, with respect to the subject matter thereof.

5.7. This Settlement Agreement may not be altered, amended, modified or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

5.8. The language of this Settlement Agreement shall be construed as a whole, according to its fair meaning and intent, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting the Settlement Agreement or any specific terms or conditions hereof. This Settlement Agreement shall be deemed to have been drafted by all Parties, and no Party shall urge otherwise.

5.9. The headings in this Settlement Agreement are for convenience only. They in no way limit, alter or affect the meaning of this Settlement Agreement.

5.10. This Settlement Agreement shall be construed and enforced pursuant to the laws of the State of California.

5.11. Should any provision of this Settlement Agreement be held illegal, such illegality shall not invalidate the whole of this Settlement Agreement; instead, the Parties shall use their best efforts to reform the Settlement Agreement in order to give effect to the original intention of the Parties in all material respects.

5.12. This Settlement Agreement may be executed in multiple original and/or facsimile counterparts, each of which is equally admissible in evidence and shall be deemed to be one and the same instrument. This Settlement Agreement shall not take effect until each Party has signed a counterpart.

5.13. Each signatory to this Settlement Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement as of Effective Date.

The Governor of the State of California

By: \_\_\_\_\_

Barry Goode, Secretary of Legal Affairs

Attorney for the Governor of the State of California

The California Department of Water Resources

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

The California Electricity Oversight Board

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

The California Public Utilities Commission

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attorney General of the State of California

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Allegheny Energy Supply Company, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Allegheny Trading Finance Company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_